

**COUNCIL MEETING NOTICE AND AGENDA
WEDNESDAY, SEPTEMBER 24, 2014
9:00 A.M. OR SOON THEREAFTER**

COUNCIL CHAMBERS
HISTORIC COUNTY BUILDING
4396 RICE STREET, SUITE 201
LIHU'E, KAUA'I, HAWAII 96766

RECEIVED

A. MEETING CALLED TO ORDER.

'14 SEP 18 P1:23

B. ROLL CALL.

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

C. APPROVAL OF AGENDA.

D. PUBLIC COMMENT.

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

E. MINUTES of the following meetings of the Council:

1. August 13, 2014 Council Meeting
2. August 13, 2014 Public Hearing re: Bill No. 2548, Bill No. 2549, and Bill No. 2550
3. August 20, 2014 Special Council Meeting
4. August 27, 2014 Council Meeting

F. CONSENT CALENDAR:

1. C 2014-249 Communication (08/29/2014) from Councilmember Rapozo, transmitting for Council consideration, a Resolution urging that a cooperative effort be made by the State of Hawai'i, Hawai'i State Department of Education, and community residents in preventing a situation that allows school personnel to deny meals to students with a zero balance or deficit meal account.
(See Resolution No. 2014-44)

G. COMMUNICATIONS:

1. C 2014-250 Communication (09/03/2014) from the Housing Director, requesting Council approval to decline the County's option to repurchase Unit No. 304, Ho'okena at Puhi, located at 2080 Manawalea Street, Līhu'e, Hawai'i, and to grant the owner a one-year waiver of the buyback and allow the market sale of the unit.
2. C 2014-251 Communication (09/08/2014) from the Executive on Aging, requesting Council approval to apply for, receive, and expend Year One funds in the amount of \$62,847, from the 2015 Retired and Senior Volunteer Program (RSVP) Competition awarded by the Corporation for National and Community Service for a three (3) year grant period from April 1, 2015 to March 1, 2018, with County matching funds of \$90,635, to assist the County of Kaua'i Agency on Elderly Affairs, Kaua'i RSVP, in carrying out a national service program as authorized by the Domestic Volunteer Services Act of 1973, as amended, (Title 42 United States Code (USC), Chapter 22).
3. C 2014-252 Communication (09/12/2014) from the County Attorney, requesting authorization to expend additional funds up to \$38,000 for Special Counsel's continued services to represent Henry Barriga and Sherwin Perez in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. CV13-00202 DKW-BMK (U.S. District Court), and related matters.
4. C 2014-253 Communication (09/12/2014) from the County Attorney, requesting authorization to expend funds up to \$38,000 for Special Counsel's continued services provided for Defendant Chris Calio in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. CV13-00202 DKW-BMK (U.S. District Court), and related matters.
5. C 2014-254 Communication (09/12/2014) from the County Attorney, requesting authorization to expend funds up to \$20,000 to retain Special Counsel to represent the County of Kaua'i and Robert F. Westerman, Kalani Vierra, and Norman Hunter in their official capacities for the County of Kaua'i, Kaua'i Fire Department in Carl Ragasa vs. County of Kaua'i, et al., Civil No. CV14-00309, (Fifth Circuit Court), and related matters.
6. C 2014-255 Communication (09/12/2014) from the County Attorney, requesting authorization to expend funds up to \$20,000 for Special Counsel to represent the County of Kaua'i in Christina Pilkington vs. County of Kaua'i, et al., Civil No. 14-1-0123, (Fifth Circuit Court), and related matters.

7. C 2014-256 Communication (09/12/2014) from the County Attorney, requesting authorization to expend funds up to \$20,000 for Special Counsel to represent the County of Kaua'i in EEOC Charge No. 486-2014-00468 (United States Equal Employment Opportunity Commission), and related matters.

H. LEGAL DOCUMENT:

1. C 2013-271 Communication (07/16/2013) from Ian K. Jung, Deputy County Attorney, recommending Council approval of a Grant of Pedestrian and Parking Easements relating to Kahuaina Plantation Subdivision (S-2007-02) and Kahuaina Plantation Subdivision Phase II (S-2009-15):
- Grant Of Pedestrian And Parking Easements; concerning real property identified as Lot 15-A (TMK (4) 5-1-003:006), Lot 15-D (TMK (4) 5-1-003:032) and Lot 15-K (TMK (4) 5-1-003:039)
(Deferred 09/10/2014)

I. COMMITTEE REPORTS:

1. PLANNING COMMITTEE:

- a. **CR-PL 2014-06:** on Bill No. 2540 A BILL FOR AN ORDINANCE AMENDING ARTICLE 17, CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO NONCONFORMING USE CERTIFICATES FOR SINGLE FAMILY VACATION RENTALS
[Approved.]
- b. **CR-PL 2014-07:** on Bill No.2461, Draft 1 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*Amendments to the Shoreline Setback Ordinance*)
[Approved as Amended.]

2. COMMITTEE OF THE WHOLE:

- a. **CR-COW 2014-13:** on COW 2014-04 Communication (08/28/2014) from Council Chair Furfaro and Councilmember Yukimura, requesting the presence of the State Department of Health and State Department of Agriculture, to present a briefing on the recently-released "2013-14 State Wide Pesticide Sampling Pilot Project Water Quality Findings."
[Received for the Record.]

J. RESOLUTION:

1. Resolution No. 2014-44 – RESOLUTION URGING COOPERATION BY THE STATE OF HAWAII, THE HAWAII STATE DEPARTMENT OF EDUCATION, AND COMMUNITY RESIDENTS IN PREVENTING THE DENIAL OF SCHOOL MEALS TO STUDENTS

K. BILLS FOR SECOND READING:

1. Bill No. 2461, Draft 2 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*Amendments to the Shoreline Setback Ordinance*) (*See also CR-PL 2014-07; the Planning Committee recommended approval as amended to Bill No. 2461, Draft 2 on September 17, 2014.*)

2. Bill No. 2540 – A BILL FOR AN ORDINANCE AMENDING ARTICLE 17, CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO NONCONFORMING USE CERTIFICATES FOR SINGLE FAMILY VACATION RENTALS (*See also CR-PL 2014-06; the Planning Committee recommended approval on second and final reading.*)

L. EXECUTIVE SESSION: Pursuant to Hawai'i Revised Statutes (HRS) §92-7(a), the Council may, when deemed necessary, hold an Executive Session on any agenda item without written public notice if the Executive Session was not anticipated in advance. Any such Executive Session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a). (*Confidential reports on file in the County Attorney's Office and/or the County Clerk's Office. Discussions held in Executive Session are closed to the public.*)

1. ES-758 Pursuant to Hawai'i Revised Statutes Sections 92-4, 92-5(a)(4), and Kauai County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an Executive Session for discussion and decision making relevant to Section 20.02(B) of the Kauai County Charter, to wit, investigating breach of confidentiality relating to executive session meetings, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item. (***Deferred 09/17/2014***)
2. ES-759 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kauai County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on Special Counsel's continued representation of Henry Barriga and Sherwin Perez in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. CV13-00202 DKW-BMK (U.S. District Court), and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

3. ES-760 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an executive session with the Council to provide the Council with a briefing on Special Counsel's continued representation of Defendant Chris Calio in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. CV13-00202 DKW-BMK (U.S. District Court), and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
4. ES-761 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on the retention of Special Counsel to represent the County of Kaua'i, and Robert F. Westerman, Kalani Vierra, and Norman Hunter in their official capacities for the County of Kaua'i, Kaua'i Fire Department in Carl Ragasa vs. County of Kaua'i, et al., Civil No. CV14-00309, (Fifth Circuit Court), and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
5. ES-762 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on the retention of Special Counsel to represent the County of Kaua'i in Christina Pilkington vs. County of Kaua'i, et al., Civil No. 14-1-0123 (Fifth Circuit Court), and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
6. ES-763 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on the retention of Special Counsel to represent the County of Kaua'i in EEOC Charge No. 486-2014-00468 (United States Equal Employment Opportunity Commission), and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

7. ES-764 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide a briefing regarding EEOC Charge Nos. 486-2013-00066, 486-2013-00345, 486-2013-00047, 486-2013-00343, 486-2013-00005, 486-2013-00342 concerning the County of Kaua'i, Kaua'i Police Department, to obtain settlement authority, and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
8. ES-765 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on the Council's authority to accept grants of easements as it relates to Section 9-2.9 of the Kaua'i County Code 1987 as amended, and legal issues relative to the processing of conveyance documents and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

M. ADJOURNMENT.

- N. PUBLIC HEARING NOTE: If the Council is not finished with this meeting by approximately 1:30 p.m., it will recess for public hearings on the following. After the public hearings, the Council will reconvene to complete any unfinished business.

*[*For complete information, including a summary of the item, please refer to the official Notice of Public Hearing. The official Notice of Public Hearing has been published, posted on the bulletin board, and filed in the County Clerk's Office as required by law. Notwithstanding this Council Agenda, the Council may hold a public hearing on any item which has been posted in advance in compliance with the Sunshine Law.]*

For a copy of the notice, please go to:

<http://www.kauai.gov/Government/CountyCouncil/PublicHearingNoticesandMinutes/tabid/599/Default.aspx>

1. Bill No. 2551 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 21, SECTIONS 21-1.3 AND 21-9.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO INTEGRATED SOLID WASTE MANAGEMENT TO ESTABLISH VARIABLE RATES FOR THE COLLECTION OF RESIDENTIAL AND COMMERCIAL REFUSE (PAY AS YOU THROW)
2. Bill No. 2552 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2014-781, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2014 THROUGH JUNE 30, 2015 BY REVISING THE AMOUNTS ESTIMATED IN THE CRIMINAL ASSETS FORFEITURE FUND (*Kaua'i Police Department, Exercise Equipment – \$70,000*)

3. Bill No. 2554 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES
(Real Property Tax Relief for the 2014 Tax Year)
 4. Bill No. 2555 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2014-781, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2014 THROUGH JUNE 30, 2015, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND
(Real Property Tax Relief Funding – \$750,000)
 5. Bill No. 2556 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES
(Reinstating the Permanent Home Use Tax Limit)
 6. Bill No. 2557 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES
(Low Income Tax Credit)
 7. Bill No. 2558 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES
(Retroactive Real Property Tax Measures and Extensions)
 8. Bill No. 2559 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES
(Tax On Use)
- O. NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LIHU'E, KAUAI, HAWAII 96766. TELEPHONE NO. (808) 241-4188. FACSIMILE NO. (808) 241-6349.